

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 68, “Iowa Public Charter Schools,” Iowa Administrative Code.

Upon initial enactment of Iowa’s Charter Schools Act (Iowa Code chapter 256F) in 2003, Chapter 68 was adopted in September of 2003. There are presently less than ten charters. 2010 Iowa Acts, Senate File 2033, added the concept of innovation zone schools to chapter 256F. An innovation zone school is similar to a charter school, but whereas a charter school is a public attendance center chartered and governed by the local school board of the school district in which the charter school is located, an innovation zone school is a public attendance center established by a consortium that must include at least two school districts and an area education agency.

Items 1 through 7, 13, and 15 reflect the nonsubstantive or merely clerical changes necessitated by the enactment of Senate File 2033.

The amendment to the number of points in Item 8 is emphasize that innovation is of great importance to the state board.

The proposed amendment in Item 9 reflects actual practice. Because the state board does not meet every month, it is not always possible to meet the existing 60 day deadline. On the other hand, actual practice is for the department to give notice to applicants of the state board’s decision about a charter application well within five days.

Item 10’s proposed language (also part of Item 14) was added to implement Senate File 2033.

The amendment in Item 11 is proposed to correct an error in law. Pursuant to Iowa Code chapter 290, only an affected student or parent of a minor affected student may invoke the appeal procedure in that chapter.

Item 14 includes the proposed rules for proposal of innovation zone schools by innovation zone consortia, approval and review process of the schools, and process for renewal or termination of the schools.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before September 14, 2010, at 4:30 p.m. Comments on the proposed amendments should be directed to Carol Greta, Office of the Director, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319–0146; telephone (515)281–8661; E-mail carol.greta@iowa.gov; or fax (515)281–4122.

A public hearing will be held on September 14, 2010, from 1 to 2 p.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact and advise the Department of Education of their specific needs by calling (515)281–5296.

These amendments are intended to implement Iowa Code chapter 256F, as amended by 2010 Iowa Acts, Senate File 2033.

The following amendments are proposed.

ITEM 1. Amend **281—Chapter 68** by changing the parenthetical implementation statute from “256F” to “256F,83GA,SF2033” wherever it appears.

ITEM 2. Amend **281—Chapter 68**, title, as follows:

CHAPTER 68
IOWA PUBLIC CHARTER AND INNOVATION ZONE SCHOOLS

ITEM 3. Amend **281—Chapter 68** by adding the following **new** division title to precede rule 281—83.1(256F,83GA,SF2033):

DIVISION I
GENERAL PROVISIONS

ITEM 4. Amend rule **281—68.1(256F,83GA,SF2033)** as follows:

281—68.1(256F,83GA,SF2033) Purpose. All charter schools and innovation zone schools in Iowa are public schools whose purpose is established pursuant to Iowa Code chapter 256F. A charter school may be established by creating a new school within an existing public school or by converting an existing public school to charter status. This chapter provides the criteria and weighting for those criteria that the state board shall use to determine if an application for a public charter school or innovation zone school shall be approved.

ITEM 5. Amend rule **281—68.2(256F,83GA,SF2033)**, definitions of “Advisory council” and “Family unit,” as follows:

"Advisory council" means a council appointed by the school board of a charter school or an innovation zone consortium. ~~No~~ With respect to a charter school, no more than one member of the council may be a member of the school board.—~~A ; a~~ district's school improvement advisory committee may also serve as its advisory council. With respect to an innovation zone consortium, no more than one member of the council may be a

member of any participating school board. The All advisory council is councils are
subject to the provisions of Iowa Code ~~chapter~~ chapters 21 and 22.

"*Family unit*" means a household in which reside one or more students enrolled at the existing public school ~~whose board seeks to convert the school to~~ that is the subject of either a charter school application or an innovation zone school application.

ITEM 6. Amend rule **281—68.2(256F,83GA,SF2033)** by adding the following **new** definitions in alphabetical order:

"*Innovation zone consortium*" means a consortium of two or more school districts and an area education agency in which one or more of the school districts is located, that receives approval from the state board to establish an innovation zone school.

"*Innovation zone school*" means a public school established as an innovation zone school pursuant to an innovation zone school contract entered into by an innovation zone consortium to meet one or more of the purposes in Iowa Code section 256F.1.

ITEM 7. Amend **281—Chapter 68** by adding the following **new** division title to precede rule 281—83.3(256F,83GA,SF2033):

DIVISION II CHARTER SCHOOLS

ITEM 8. Amend subrule **68.4(2)** as follows:

68.4(2) *Ranking of applications.* Applications shall be ranked on a point system, and applications shall be recommended in rank order beginning with the application with the highest points. In the event that two or more applications tie, the applications will be reviewed until the tie is broken.

The maximum points for an application shall be 100. The maximum points for each criterion provided in Iowa Code section 256F.5 shall be as follows:

a. Overview. The mission, purpose, innovation, and specialized focus of the charter school. The maximum number of points that can be awarded is ~~40~~ 40.

b. Organization and structure. The maximum number of points that can be awarded is ~~25~~ 10. The description of the organization and structure shall include:

(1) to (9) No change.

c. Facilities/financial support. The maximum number of points that can be awarded is ~~25~~ 10. The description of the facilities/financial support shall include:

(1) to (5) No change.

d. No change.

ITEM 9. Amend subrule **68.4(3)** as follows:

68.4(3) *State board review.* The state board shall review the recommendations provided by the department. The state board shall, by a majority vote, approve or deny an application within ~~60~~ 90 calendar days of receipt of the application and shall notify applicants within ~~14~~ five days of the state board's decision. An approved application shall be a part of the contract for the operation of the charter school. The terms of the contract for the operation of the charter school shall also outline the reasons for revocation or nonrenewal of the charter.

ITEM 10. Amend subrule **68.7(1)** by adding the following **new** paragraph:

d. The charter school has failed to demonstrate improvement in student progress from that which existed prior to the establishment of the charter school to the present, in reading, mathematics, and science as evidenced by achievement scores on the latest administration of the state assessment for which scores are available, or in alternative but equivalent locally determined performance measures including but not limited to

additional administrations of the state assessment, portfolios of student work, student performance rubric, or end-of-course assessments.

ITEM 11. Amend subrule **68.7(2)** as follows:

68.7(2) Revocation by school board. A school board considering the revocation of a contract with its charter school shall notify the advisory council, the family units, and the teachers and administrators employed by the charter school at least 60 days prior to the date by which the contract must be renewed, but not later than the last day of classes in the school year. The decision of a school board to revoke or fail to renew a charter school contract is subject to appeal by ~~a member of the advisory council~~, an affected student, ~~or an individual employed by the charter school~~ or parent of an affected student who is a minor under procedures set forth in Iowa Code chapter 290.

ITEM 12. Rescind subrule **68.7(4)**.

ITEM 13. Add and reserve rules **281—68.8(256F,83GA,SF2033)** to **281—68.10(256F,83GA,SF2033)**.

ITEM 14. Add new Division III and rules **281—68.11(256F,83GA,SF2033)** to **281—68.19(256F,83GA,SF2033)**, as follows:

DIVISION III INNOVATION ZONE SCHOOLS

281—68.11(256F,83GA,SF2033) Application process. An innovation zone consortium shall submit an application to establish an innovation zone school to the state board no later than December 15 immediately preceding the school year for which the innovation zone school desires to start operations. The application shall demonstrate the support, as of approximately the date of submission of the application, of at least fifty percent of the teachers employed at the proposed innovation zone school and at least fifty percent of the

affected family units. The application shall set forth the manner in which the innovation zone school will comply with federal and state laws regarding instruction to students who are English language learners and regarding the National School Lunch Act and Child Nutrition Act.

281—68.12(256F,83GA,SF2033) Review process. Upon timely receipt of an application from an innovation zone consortium for the proposed establishment of an innovation zone school, the department shall appoint a minimum of five individuals knowledgeable in student achievement and nontraditional learning environments to review each application for an innovation zone school. A reviewer shall not participate in the review of any application in which the individual may have an interest, direct or indirect.

68.12(1) *Cap on number of innovation zone schools.* Pursuant to Iowa Code subsection 256F.3(7), the state board shall approve the establishment of not more than ten innovation zone schools.

68.12(2) *Allocation of points on applications.* Points shall be allocated to applications; the maximum points for any one application shall be 100. The maximum points for each criterion shall be as set forth in paragraphs “a” through “d” of subrule 68.4(2). The department shall make a recommendation to the state board regarding whether an application should be approved or denied by the state board.

68.12(3) *State board review.* The state board shall review the recommendations provided by the department. The state board shall, by a majority vote, approve or deny an application within 90 calendar days of receipt of the application and shall notify applicants within five days of the state board’s decision. An approved application shall

be a part of the contract for the operation of the innovation zone school. The terms of the contract for the operation of the innovation zone school shall also outline the reasons for revocation or nonrenewal of the approval of the innovation zone school.

281—68.13(256F, 83GA,SF2033) Ongoing review by department. An innovation zone school shall be reviewed periodically by the department to ensure continuing compliance with the innovation zone school’s contract. The department may schedule mandatory meetings with the administrators of the innovation zone school and the administrators of the school’s innovation zone consortium at the department’s sole discretion.

281—68.14(256F, 83GA,SF2033) Renewal of contract. After the initial four-year contract for an innovation zone school and at the end of each renewal period thereafter, the local boards that formed the innovation zone consortium shall take affirmative action either to request renewal from the state board of the approval of the consortium’s innovation zone school contract or to dissolve the innovation zone school. If seeking renewal of the contract from the state board, the local boards that formed the innovation zone consortium shall first hold a joint public hearing on the issue of renewal of the contract, and shall submit to the department a copy of the minutes of the public hearing showing that a majority of the local board members voted in favor of requesting renewal of the state board’s approval of the consortium’s innovation zone school contract. Any action to request renewal of the contract must specify the number of years, which shall not be more than four years, for which renewal is requested.

An innovation zone consortium must submit a new application to the department if the consortium modifies any of the terms of the original contract.

281—68.15(256F, 83GA,SF2033) Revocation of contract.

68.15(1) Reasons for revocation. An innovation zone school contract may be revoked by the state board or by the innovation zone consortium that established the school if either the board or the consortium determines that one or more of the following occurred:

- a. The innovation zone school has failed to meet the provisions set forth in the contract for the operation of the innovation zone school.
- b. The innovation zone school has failed to comply with the provisions in Iowa Code chapter 256F.
- c. The innovation zone school has failed to meet generally accepted accounting principles for public entities.
- d. The innovation zone school has failed to demonstrate improvement in student progress from that which existed prior to the establishment of the innovation zone school to the present, in reading, mathematics, and science as evidenced by achievement scores on the latest administration of the state assessment for which scores are available, or in alternative but equivalent locally determined performance measures including but not limited to additional administrations of the state assessment, portfolios of student work, student performance rubric, or end-of-course assessments.

68.15(2) Revocation by innovation zone consortium. An innovation zone consortium considering the revocation of a contract with its innovation zone school shall notify the advisory council, the family units, and the teachers and administrators employed by the innovation zone school at least 60 days prior to the date by which the contract must be renewed, but not later than the last day of classes in the school year. The decision of an innovation zone consortium to revoke or fail to renew an innovation zone school contract

is subject to appeal by an affected student or parent of an affected student who is a minor under procedures set forth in Iowa Code chapter 290.

68.15(3) Revocation by state board. If the state board determines that reason exists under subrule 68.15(1) to revoke the contract for an innovation zone school, the state board shall notify the innovation zone consortium and the advisory council of the consortium of the state board's intention to revoke the contract at least 60 days prior to the revocation of the contract, and the consortium shall assume oversight authority, operational authority, or both oversight and operational authority. The notice shall state the grounds for the proposed action in writing and in reasonable detail. The consortium may request in writing an informal hearing before the state board within 14 days of receiving notice of revocation of the contract. Upon receiving a timely written request for a hearing, the state board shall give reasonable notice to the consortium of the hearing date. The state board shall conduct an informal hearing before taking final action. Final action to revoke a contract shall be taken in a manner least disruptive to the students enrolled in the innovation zone school. The state board shall take final action to revoke or approve continuation of a contract by the last day of classes in the school year. If the final action to revoke a contract under Iowa Code section 256F.8 occurs prior to the last day of classes in the school year, an innovation zone school student may enroll in the student's resident district. The decision of the state board to revoke a contract under Iowa Code section 256F.8 is solely within the discretion of the state board and is final.

ITEM 15. Amend **281—Chapter 68**, implementation sentence, as follows:

These rules are intended to Iowa Code chapter 256F, as amended by 2010 Iowa Acts, Senate File 2033.